THE RECORD
OF THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK

EDITORIAL BOARD

BETHUEL M. WEBSTER, *President* | PAUL B. DE WITT, *Executive Secretary* | ALFRED P. O'HARA, *Secretary*

THE RECORD is published at the House of the Association, 42 West 44th Street, New York 36.

Volume 8 | May 1953 | *Number 5*

Association Activities

THE PRESIDENT of the Association has announced the appointment of James J. Ward, Jr., as the second holder of The Association of the Bar Fellowship. Mr. Ward is a graduate of Columbia College and Columbia University Law School. While in college he was Co-Captain of the University football team, a member of the Blue Key Society, the Senior Society of Nacoms, and winner of the Charles M. Rolker, Jr., prize. While in law school, Mr. Ward was a member of Phi Delta Phi and Chairman of the Student Placement Committee. He has served as Assistant to the Director of Admissions, Columbia University, Undergraduate Dormitory Counsellor, and Freshman End Coach. Mr. Ward was discharged from the Navy in July, 1946. He will assume the Fellowship on June 22, succeeding James L. Adler, Jr., who will go into private practice.

AT THE Annual Meeting on May 12, The Honorable John W. Davis will present Honorary Memberships to The Honorable Thomas W. Swan, Chief Judge, United States Court of Appeals for the Second Circuit, and The Honorable Augustus N. Hand, Judge, United States Court of Appeals for the Second Circuit,

who will speak briefly. Dudley B. Bonsal, Chairman of the Committee on Foreign Law, and Dana C. Backus, Chairman of the Committee on International Law, will present a report on the protection of American investments abroad. Louis M. Loeb, Chairman of the Committee on the Judiciary, will present a report. Interim reports will be received from Sylvia Jaffin Singer, Chairman of the Committee on the Domestic Relations Court; Eli Whitney Debevoise, Chairman of the Committee on Grievances; Parker McCollester, Chairman of the Committee on Post-Admission Legal Education; and Phillip W. Haberman, Jr., Chairman of the Special Committee on the Proposed Zoning Law. Officers of the Association will be elected.

THE HONORABLE Herbert Brownell, Jr., Attorney General of the United States, spoke before a capacity audience in the Meeting Hall on April 23. Mr. Brownell's topic was "As a Newcomer Sees the Department of Justice." Mr. Brownell's lecture is printed in this number of THE RECORD, and the Editorial Board is proud to note that Mr. Brownell has been a member of this Association since 1931, and at the time of his appointment as Attorney General was serving on the Association's Committee on Law Reform.

UNDER THE sponsorship of The National Legal Aid Association, Judge Learned Hand introduced the first in a new series of television programs, "Justice!" on April 12. Future programs in the series will dramatize stories based on material supplied by The National Legal Aid Association.

ON MAY 4 a meeting was held at the House of the Association to discuss the work of The International Commission of Jurists. The object of the meeting was to unite New York lawyers behind the Commission, which is dedicated to the support of the forces of law against the forces of tyranny within the Iron Curtain.

Speakers at the meeting were: The Honorable Learned Hand, Judge, United States Court of Appeals, retired; The Honorable John J. McCloy, Former United States High Commissioner for Germany; The Honorable Joseph M. Proskauer, Former Justice, Supreme Court of New York; The Honorable George N. Shuster, Former United States Commissioner for Bavaria; and The Honorable A. J. M. van Dal, Executive Secretary, International Commission of Jurists, The Hague. Sponsors of the meeting were the President of the Association, Dudley B. Bonsal, Paul R. Hays, Harold R. Medina, Jr., and Whitney North Seymour.

IN THIS issue of THE RECORD is published an address made by Oscar M. Ruebhausen, the Chairman of the Association's Special Committee on Atomic Energy before the American Power Conference in Chicago on March 25, 1953. Mr. Ruebhausen's paper is based upon research done by the Special Committee on Atomic Energy during the past year. This research was made possible by a generous grant from the Rockefeller Foundation, which has enabled the Committee to conduct its studies in consultation with leading experts in the field of atomic energy.

THE UNITED NATIONS Lawyers Group has invited members of the Association and their guests to attend a subscription dinner and discussion to be held on Thursday, May 14, at the United Nations Headquarters Building. The subject for the discussion will be the extent to which sovereign immunity should be granted in the courts of the world to agencies of the sovereignty engaged in commercial enterprises. The participants will be Francis A. Vallat, Legal Adviser, United Kingdom Delegation to the United Nations; Oscar R. Houston, Member, New York Bar, Gerald B. Brophy, Former Representative of the United States to the International Civil Aviation Organization and Former Consultant to the Secretary of States; Michael Brandon, Legal Department, United Nations; and Constantin Stavropoulos, Principal Direc-

tor, Legal Department, United Nations. The Honorable Herbert F. Goodrich, Judge, United States Court of Appeals, Third Circuit, and Director, American Law Institute, will preside. Dinner will be served in the Delegates' Dining Room preceding the meeting, and there will be special arrangements for the guests to inspect the new Assembly Building. The United Nations Lawyers Group was formed by lawyers in the secretariat and in the national delegations to the United Nations. The group has no official status of any kind.

THE EXECUTIVE COMMITTEE has authorized the Committee on Labor and Social Security Legislation, David L. Benetar, Chairman, to transmit to the Congress its recommendations on the conflict of federal and state jurisdiction in the labor relations field regarding enforcement of state laws and the application of state common law in enforcing labor agreements. The Committee has recommended amendments to Title V of the Taft-Hartley Act.

THE ANNUAL ART SHOW opened on Tuesday, May 5. In connection with the opening, John W. Thompson, Chairman of the subcommittee in charge of the show, asked that the following communication on behalf of the Committee on Art, Samuel A. Berger, Chairman, be called to the attention of the entire membership:

> "The Committee on Art has been trying to stimulate interest among the membership in the Annual Art Shows and more particularly to encourage other members to participate in some form of art expression for the beneficial and delightful results which others have experienced. The Committee believes that many have this interest but are reluctant for no good reason to exhibit the results of their activities. All members, therefore, are requested to become informers and to send in the name of any member

who, to their knowledge, engages in some form of art expression as an avocation to the Committee on Art. Perhaps these members can then be persuaded that they should exhibit not only for the stimulating effect which that has upon their own efforts, but also to afford to the Association and its friends a better indication of the extent to which the Association membership takes a real and personal interest in activities outside the profession."

THE JUSTICES of the Appellate Division, First Department, have announced the appointment to the Committee on Character and Fitness of Arthur H. Schwartz, Bruce Bromley, and Monroe Goldwater.

AT ITS last meeting the Special Committee on Atomic Energy, Oscar M. Ruebhausen, Chairman, had as guests Dr. James G. Beckerley, George F. Trowbridge, and Dr. John R. Dunning. The guests discussed with the Committee various problems involved in the information control provisions of the Atomic Energy Act, with special reference to their impact on the proposed industrial power program.

JOHN ROBERTS MILLER, Chairman of the Committee on Junior Bar Activities, has announced that an anonymous donor has made possible the establishment of The John C. Knox Award, which will be made annually to the law school whose team is the winner of the National Moot Court Competition. The award is a Queen Anne English silver two-handled covered cup. Under the terms of the gift the Knox Award will remain in competition and will not be retired. The Samuel Seabury Award was retired when the Georgetown University Law School had won it two times. The gift of the anonymous donor also makes possible The William J. Donovan Prize. This prize consists of the sum of five

hundred dollars to be presented to the law school whose team is the winner of the national competition to be used in the furtherance of the school's moot court program.

"LOST IN THE STACKS," the musical comedy written, acted, and produced by members of the Association under the sponsorship of the Committee on Entertainment, Boris Kostelanetz, Chairman, played to enthusiastic audiences on four nights. The thanks of the Association go to all those who made the show an outstanding success, and to those who made the post-show entertainment so enjoyable.

IN APRIL three important symposia were held. Under the auspices of the Committee on Foreign Law, Dudley B. Bonsal, Chairman, there was a discussion of "American Investments Abroad." The Committee on the Domestic Relations Court, Sylvia Jaffin Singer, Chairman, held a symposium, "Judges for Children," the principal speaker being Mrs. Franklin D. Roosevelt. "The Trial of an Antitrust Case" was the subject of the third discussion which was held at a meeting of the Section on Trade Regulation, Jerrold G. Van Cise, Chairman.

A TESTIMONIAL DINNER was tendered in April to Chief Judge John C. Knox of the United States District Court for the Southern District of New York by The Foley Square Heads at the Harvard Club. The occasion marked the 35th anniversary of Judge Knox's career on the Federal bench to which he was appointed on April 12, 1918. The dinner was attended by most of the Judges of the Court of Appeals for the Second Circuit, the District Judges of the Eastern and Southern Districts of New York and the United States Attorneys for those Districts.

The Foley Square Heads is an association of Assistant United States Attorneys who served during the period 1934 to 1938

under the late United States Attorneys Martin Conboy and Lamar Hardy. Joseph W. Burns, President of the Association, read letters of congratulations from President Eisenhower, Attorney General Herbert Brownell, Jr. and Governor Thomas E. Dewey. Both Governor Dewey and Judge Knox had served as Assistant United States Attorneys earlier in their careers.

THE ARCHIVIST of the United States, Wayne C. Grover, has announced the publication of "Charters of Freedom," readable facsimiles of the Declaration of Independence, the Constitution, and the Bill of Rights; the accompanying text gives briefly the historical background. "Charters of Freedom" can be purchased at the National Archives or ordered by mail. The price per copy is twenty-five cents, or twenty cents in quantities of five hundred or more. Checks should be made payable to the Treasurer of the United States and sent to the National Archives, Washington 25, D.C.

THE TWELFTH ANNUAL Benjamin N. Cardozo Lecture was delivered on May 7 by The Honorable John J. Parker, Chief Judge of the United States Court of Appeals for the Fourth Circuit. Chief Judge Parker spoke on "The American Constitution and World Order Based on Law." Members of the Federal Judiciary from the Eastern and Southern Districts were guests of the Association. A memorial to the late Justice Bernard L. Shientag was presented by Whitney North Seymour. Judge Parker's lecture will be published in THE RECORD for June.

DR. KURT NADELMAN and Dr. Wilhelm Wengler, Professor of Law at the Free University of Berlin, were guests of the Committee on Foreign Law. The guests took part in a discussion of a report prepared by Phanor J. Eder, which will be published in the June RECORD. The Committee also released for publication in

this issue of THE RECORD a report on Protection of American Investments Abroad.

JULIUS ISAACS, Chairman of the Committee on Medical Jurisprudence, attended a conference at the New York Academy of Medicine at which the Committee for Study of Release Procedures for Mental Patients, appointed by the Mental Hygiene Council, addressed representatives of social agencies, bar associations, and others. Mr. Isaacs' Committee continues its study of the problem of release procedures.

THE ANNUAL forum of the Committee on Arbitration will be held on May 18, the topic being "1953 Symposium on Arbitration, Its Pros and Cons From the Standpoint of the Courts, Lawyers and Laymen." Sylvan Gotshal, the Chairman of the Committee on Arbitration, will act as Moderator, and the opening address will be made by Whitney North Seymour, President, American Arbitration Association. The panel of speakers will be Edwin M. Otterbourg, President, New York County Lawyers' Association; Harry J. Schlichting, Chairman, Arbitration Committee, American Spice Trade Association; Erwin Feldman, Henry Mayer, Walter A. Benz, President, Association of Food Distributors, Inc.; Walter Gordon Merritt, Burton A. Zorn, and J. Noble Braden, Executive Vice President, American Arbitration Association.

THE COMMITTEE on Insurance Law, James B. Donovan, Chairman, will sponsor two forums in May. The first on May 13 will be a discussion of "Highlights of the New York Standard Fire Insurance Policy." Speakers and their subjects will be: David A. Ticktin, "Coverage Afforded by the Policy;" George D. Vail, Jr., "Rights and Obligations When Loss Occurs;" and Alfred B. Nathan, "Litigation Under the Policy." The second in the series will be held on May 20. The topic for the second forum will be

"Highlights of Automobile Liability Insurance." The speakers and their topics will be: John P. Faude, "Coverage Afforded by the Policy;" and John Wayne Van Orman, "Rights and Obligations When An Accident Occurs."

CHARLES W. DIBBELL, a member of the Association, has contributed the following ode on the Reorganization of "Fiasco":

When Federal International Atomic Superpower Corporation ("FIASCO")
Was in its prime it had as many affiliates as Electric Bond and Share Company ("EBASCO"),
And in the Nineteen-Twenties, under the leadership of that well-known tycoon John Q. Babbitt,
It gave birth to so many subsidiaries you might well have called it a veritable corporate rabbit;
But during the depression of the 'Thirties there was naturally a period of contraction,
And from lack of financial nourishment the number of subsidiaries controlled by FIASCO shrank to only a fraction;
Later, as a public utility holding company, it came under the jurisdiction of the Securities and Exchange Commission
And, for quite a time, the alleged sins of action and omission
Of the former management were exhumed
And new-broomed,
And the Commission issued a report
And went to Court,
And a Trustee was appointed,
Garbed in robes of Truth, and he unjointed
Some more of Babbitt's
Subsidiary rabbits,
And then he proposed
A Plan of Reorganization, that was opposed
By the S. E. C.
Which said, "Gee,
You haven't made it tough enough,"
And by the stockholders, who said, "Cut out that stuff,—
We can prove, by a relatively relative formula that could easily be understood by Einstein,
That by the early decades of the 25th Century all the debts will be paid off and everything will be just fine, fine,
And you've therefore
Got to care for
Our valuable equities and if you don't, we'll appeal."
So they did, and quite a bit later the Supreme Court said, "We feel,
After cutting through the fog of obfuscation and polite vilification
Surrounding the various parties' contentions, that there should be further simplification."

But by then the furor
Was drowned out by War,
So naturally the Trustee sat
Pat,
While everyone thought of other things,
And so Time passed on silent wings
Until, one day,
A stockholder's attorney said, "Say,
I wonder what ever became of FIASCO," and he looked, and he beamed,
And his client's eyes gleamed,
For the situation now was truly a honey:
The Trustee's coffers were bulging with money
And the debts had been paid;
So plans were laid
For the prompt and fruitful germination
Of a new Plan of Reorganization and the termination
Of that ancient and almost undying reorganization proceeding
And for the prospective financial feeding
Of the stockholders and their lawyers and their committees,
And some began to hum little ditties,
And everyone began to talk about how to divide up the pot,
But that's where it became evident that of agreement there was not,
For the senior stockholders and the junior stockholders, respectively, each wanted to take it all,
And the junior stockholders and the senior stockholders, respectively, wouldn't play ball
On any such basis,
And they all cited cases
And everyone argued with exasperated vehemency
And accused the others of pure expediency;
So time went on,
And on and on,
And one day, as a minor digression,
There appeared on the horizon a minor depression
Which, somehow or other, and I don't know how, exactly, because the smart boys had said there couldn't be any more, became
A depression (major) and the name
Of FIASCO was purely and simply MUD
And its proposed reorganization a dud,
And gradually its assets began to shrink
And it found itself once more on the brink
Of insolvency and then
The whole thing began all over again.

And this is the question I'd like to ask-oh,
Tell me, have you ever heard such a sad tale as that of FIASCO?

The Calendar of the Association For May and June

(As of April 30, 1953)

May 4 "Lawyers and the Cold War" in Cooperation with the International Commission of Jurists. 8 P.M.
Dinner Meeting of Committee on Federal Legislation
Dinner Meeting of Committee on Labor and Social Security Legislation
Dinner Meeting of Committee on Professional Ethics

May 5 *Opening of Annual Exhibition of Paintings and Graphic Arts. 4:30 P.M.*
Meeting of Section on Taxation

May 6 Dinner Meeting of Executive Committee
Meeting of Committee on Arbitration
Meeting of Section on Labor Law
Meeting of Section on Wills, Trusts and Estates

May 7 Twelfth Annual Benjamin N. Cardozo Lecture. "The American Constitution and World Order Based on Law." Speaker—The Honorable John J. Parker, Chief Judge of the United States Court of Appeals for the Fourth Circuit. 8 P.M. *Buffet Supper, 6:15 P.M.*
Meeting of Committee on Aeronautics

May 11 Meeting of the Committee on the City Court of the City of New York
Dinner Meeting of Committee on Municipal Court

May 12 *Annual Meeting of the Association, 8:00 P.M. Buffet Supper, 6:15 P.M.*

May 13 Dinner Meeting of Committee on Atomic Energy
Dinner Meeting of Committee on Insurance Law
Forum—Highlights of the New York Standard Fire Insurance Policy, 8 P.M. Sponsorship Committee on Insurance Law

May 14 Dinner Meeting of Committee on Admissions
Meeting of Section on Jurisprudence and Comparative Law. 8 P.M.
Dinner Meeting of Committee on Legal Aid

May 18 Dinner of Committee on Arbitration
Symposium on Arbitration. Its Pros and Cons from the Standpoint of the Courts, Lawyers and Laymen. 8 P.M.
Meeting of Library Committee

May 20 Forum—Highlights of Automobile Liability Insurance, 8 P.M. Sponsorship Committee on Insurance Law
Dinner Meeting of Committee on Municipal Affairs

May 25 Dinner Meeting of Committee on Law Reform

May 26 Dinner Meeting of Committee on the Domestic Relations Court
Meeting of Section on Litigation

May 27 Meeting of Section on Corporations

May 28 Meeting of Section on Trade Regulation
Dinner Meeting of Committee on Trade Regulation and Trade Marks

June 1 Dinner Meeting of Committee on Federal Legislation
Dinner Meeting of Committee on Professional Ethics

June 3 Dinner Meeting of Executive Committee

As a Newcomer Sees The Department of Justice

By The Honorable Herbert Brownell, Jr.
Attorney General of the United States

There is a story told about Attorney General Frank Murphy which indicates a common public attitude toward the Department of Justice.

During Murphy's tenure as Attorney General, he issued a directive barring from the Justice Building any person who failed to show an authorized pass. One Saturday, Mr. Murphy himself attempted to get into the Department of Justice Building and was summarily stopped by a new and over-zealous guard. Mr. Murphy complimented the guard on his attention to security regulations and said, "I've forgotten my identification card but you *must* recognize *me*, I'm Frank Murphy." The guard retorted, "Nobody gets in here without a pass. I wouldn't let you in even if you was J. Edgar Hoover himself."

Now I am not J. Edgar Hoover himself either, but a few months back I did achieve small fame.

At that time, I made front pages of the New York papers by appearing before the Senate Interior and Insular Affairs Committee. The importance of my remarks before that Committee was somewhat obscured by my sartorial idiosyncrasies. Press photographers and reporters that day were inordinately attracted to a pair of shoes I wore. The left shoe was a nifty little scotch-grain with a perforated welt all around. The right shoe was a well-burnished saddle leather without perforations. For some reason this pair of shoes was deemed singular. Actually I couldn't see what was so unique, because I had another pair *just like it at home.*

Editor's Note: The Attorney General's lecture, which is published here, was delivered on April 23, 1953, under the auspices of the Association's Committee on Post-Admission Legal Education, Parker McCollester, Chairman.

And so, lest you good people of New York think I spend all my time modeling queer footwear in the Senate Chamber, I would like to render a somewhat free-style account of my brief stewardship as the 62nd Attorney General of the United States—and to spell out for you some of my first impressions of the Department of Justice.

In my remarks tonight, I will attempt first to outline the nature and scope of the Department of Justice; I will cite some of the problems that bedevil us; discuss what strides we feel we have made and what hope of further progress we hold for the future. The conclusions—whether you as taxpayers are getting full value for your money—I will leave to you. But when I have spun my yarn, I hope you will feel that I have spoken with candor and without guile. So even if you feel that we are short-changing the taxpayers, you will chalk it up to a difference of opinion and at least not ascribe to us the dubious ethics of that movie cashier who when asked what he did when a customer forgets his change, replied, "I knock on the window with a dollar bill."

It is the intent of my department—as well as that of the whole administration—to put before the public at large and before various key groups like this one—informal reports from time to time, discussing our problems with you and reporting whatever progress we can claim. Because our progress is your progress. At least for the next four years!

Especially important is it that the Department of Justice bare its face. For this once august and respected arm of government has, in recent years, fallen from grace. Public confidence in the Department of Justice has been shaken by scandalous reports of incredible dereliction, shocking malfeasance, and just plain incompetence.

Our first task then, is to restore confidence in the Department of Justice—confidence in the ability of 30,000 employees to do an honest, resultful job of carrying out the duties assigned.

What are those duties?

The charter of the Justice Department is simply stated.

The Attorney General and his staff act as "the People's Attor-

ney." Our sole client is the United States Government. We are charged with rendering legal opinion and assistance to the President and to his Cabinet and to the various agencies and departments of the Government. And even though these other branches of the Federal Government employ more than 6,000 attorneys, these lawyers never appear in court. The Department of Justice represents the Federal Government in all cases brought by and against the United States.

However simple such a description may be—the Department of Justice is in fact an intricate maze of subdivisions and bureaus.

Here is an organization of 30,000 employees, dispersed in 11 buildings in Washington and in 500 additional offices throughout the United States and its territories. To carry out the tasks assigned to us we handle over 30 million pieces of mail a year; our 4,781 motor vehicles travel more than 53 million miles a year; we take in 275 million dollars in revenue and spend 175 million dollars.

Coming from private practice to an organization like this was a somewhat unsettling experience. I felt much like the man who fell out of a fourth story window onto the sidewalk. Quickly a crowd gathered and a policeman pushing his way through to the injured man asked, "What's going on here?" The fellow replied, *"I dunno, I just got here myself."*

Well, that was *almost* my reaction. For the size and diversity of the Justice Department has no remote counterpart in private practice. In my own firm, when we had reached a total of 40 lawyers, some of the principals were concerned that we were getting too big—losing the personal touch with the clients, you know. Here in the Department we're hard put to keep any kind of touch with our 1,600 lawyers, personal or otherwise—to say nothing of the other 50 classifications of employees who make up the 30,000 persons on the staff of the Department.

What do they all do—these lawyers and investigators, librarians, clerks and prison guards?

I'll be able to answer that question more definitively after I've earned my first hash mark in the job. But here are a few examples

of the thousands of decisions and actions the Department of Justice may be called to make and take in a single day: to apprehend a pair of spies in Vienna and bring them back to the United States for questioning . . . to replace a prosecutor stricken with appendicitis midway in a trial against Communist leaders in Honolulu . . . to adjudicate claims brought about by a Navy plane ramming a commercial airliner in mid-air . . . to institute condemnation proceedings against property in Colorado, needed for a new military airfield . . . to request a Grand Jury presentment in Florida where KKK terrorisms and bombings endanger civil liberties . . . to seek an injunction against a striking labor union in a tiny parts manufacturing plant in Dunkirk, New York, whose product was vital to the atomic energy program . . . to initiate deportation proceedings against undesirables like Joseph Accardi . . . to testify before a Senate or House Committee on some pending bill, such as, perhaps, justifying our Departmental budget of $175,000,000 . . . to write an opinion for the President on a proposed Executive Order . . . to select a new Board of Directors for a $100,000,000 corporation whose stock is owned by the United States and administered in the Office of Alien Property . . . to recommend to the President a new Federal judge or action on a clemency petition.

Twas not ever thus. The first Attorney General, appointed by George Washington in 1789 was Edmund Randolph. His chores were relatively simple. He had his office in his hat; he was encumbered by no administrative detail since he was granted no clerical assistance; he spent his time leisurely advising the President and his Secretaries of War, Treasury and State, keeping no record of what was said. And as recently as 1898 the job was relatively sinecure. Blissfully happy was Attorney General John Hay who had no phone in his office. He took his calls at the *one* telephone in the building—which was located in the hallway, some 20 yards from his office. Were this the case today, I would travel two miles a day serving that implacable demon created by Alexander Graham Bell. At that, I might stay in better physical shape.

Since those halcyon days, the Department has burgeoned to a

sprawling bureaucracy, nurtured by the complexities of modern government in a complex world.

To manage its many-sided duties, the Department is divided into four major areas of responsibility. There are in the legal area 9 divisions, each presided over by an Assistant Attorney General. In addition, there are 3 bureaus. I won't presume to submerge you with textbook descriptions of the structure of the Department since you are familiar, I am sure, with our table of organization.

However, by touching briefly on some of the problems confronting a few of our major divisions, I think I can cast some light on a question that must be on the tongue of each of you, "How are you doing—cleaning up the mess?"

Let's consider our Civil Division. The Civil Division is responsible for all civil litigation involving the United States, its agencies and offices, including the President and the Cabinet. This includes suits and claims for and against the Government, in a wide variety of cases. These run the gamut; for instance, 27,000 claims brought against the Government by Japanese-Americans, who by virtue of their internment after the outbreak of World War II were forced to leave their homes and properties which promptly were ransacked by looters and vandals. Another item in the Division is an aggregate of $250,000,000 in potential judgments as a result of the Texas City disaster a few years back.

All in all, the Civil Division has more than 64,000 suits on its hands totaling claims for more than $3 billion. Roughly 1½ billion of this total is involved in cases more than four years old.

Now the Tax Division concerns itself with both civil and criminal tax matters. Over 6,000 cases are pending here involving more than $240 million.

The Office of Alien Property, another division, holds property confiscated during the last two great wars. This property is valued at more than $310 million. And while we would dearly love to sell it to the highest bidder, we are required by law to act as operating custodians until all litigation involving the property has been resolved. This division is faced with 7,900 claims for

return of vested property and in addition there are outstanding some 43,000 claims by American citizens and other qualified persons who seek to collect payments of debts owed them by enemies of the United States.

The Lands Division is involved in many dramatic suits involving irrigation, water power and water rights in the Western States. It, among other things, is both protector of the interests of Indians and defender of the Government against Indian claims. It is enmeshed in a welter of litigation involving considerable wampum.

Since the establishment of the Indian Claims Commission in 1946, 418 claims have been filed—a total amount of 2½ billion dollars and, if interest is allowed—a whopping 10 billion dollars. Almost every acre of land west of the Mississippi is involved directly or indirectly in this litigation.

I don't think I need to keep wailing at the wall of administrative and legal detail to get my point across. The Department of Justice has its work cut out for it—and you as citizens and taxpayers have a considerable stake in our ability to do the job.

You cannot be more concerned than I.

My first thought upon assuming the office of Attorney General was of the enormity of the task to be accomplished. Clearly I felt, the job would require a full measure of everyone's time and effort. Therefore as first order of business I issued a memorandum stipulating that every employee was expected to put in a full day —beginning at nine and ending at five thirty.

The very next day one secretary showed up a half hour late—9:30. Her boss, reproving her, said, "You should have been here at 9:00." The secretary replied, *"Why, what happened then?"*

Enough similar instances gave me a pretty early clue to what problem would require immediate attention. There was an attorney who had set fire to an apartment six times in a single year—and still remained on the payroll of the Justice Department. There was a man who checked out a file in 1934—and when he died two months ago the file was still in his desk.

These incidents, of course, don't characterize either the caliber

or the attitude of all employees of our Department. But there are certain signs that indicate we have inherited more than our fair share of odd characters, log rollers and misfits—any and all of whom can impair efficiency and morale of their competent co-workers.

For truly, the morale of the Justice Department was at its nadir only a few months back.

Violations of trust and incompetency on the part of high-placed Justice officials had sundered whatever esprit de corps may have existed. And as the Italians say, "Un pesce se marcio della testa." —A fish rots from the head.

Replacing the policy-making division heads is, of course, as much a question of ideology as competence. But without making any invidious comparisons with the previous staff of the Justice Department, I can say that we now have in the top echelons a nucleus of hand-picked, qualified men; brilliant lawyers and able administrators of the highest integrity.

At least that is my belief. And after all I am the man who is placing his fate in the hands of these assistants who can spin, weave and cut the thread of my public life. On their ability to serve the public honestly and well, depends my own reputation. I believe in these men. I ask you to. They need your confidence and respect. And they deserve it.

Prior to January 20th, these officials were unknown to each other. Today they enjoy a comraderie that comes only from mutual esteem and trust, from a common desire to rebuild the reputation of the Department of Justice to its former eminence. Daily staff luncheons—with an interchange of problems and discoveries, and ideas—have already welded this group into a brisk, businesslike team of executive lawyers, whose broadening perspective makes them increasingly capable of doing an outstanding job themselves and of inspiring others to emulate their zeal and efficiency.

And if the phrase "influence flows from the top down" means anything, this apparently is the way to get at the root cause of our personnel problem. Given dynamic and intelligent leadership,

the lower strata of government careerists in our Department can't help but be infected with a new zest for work, a new pride in their accomplishments, a new diligence in their approach to problems.

Perhaps when we have been able to instill in our 30,000 employees an aversion for mediocrity and a desire for concerted excellence, we will be able to operate with almost complete delegation of authority, all down the line.

A vital part of this program of bettering the morale, of course, is replacing the diffidents, the dawdlers, the dead-heads. For in these are the seeds of dissension. Although we are engaged in a painstaking review of all personnel records, there obviously will be no wholesale firings. The business of government must go on —even if we must reluctantly endure inefficiency pro tem. By next year we hope to have effected a substantial turnover in our total personnel. We will accomplish this by assessing, from the top– and working down—the qualifications of our staff; daily deciding who goes, who stays. By finding answers to questions like, "Who did this brilliant job, who botched and bumbled this one? How did this lawyer ever pass the bar? Why hasn't that one been given more recognition and responsibility?"

First to pass in review are the U. S. Attorneys, of whom we have 94 stationed in 94 districts throughout the country and in Guam, Hawaii, etc.

The U. S. Attorneys head up miniature Departments of Justice and in a figurative sense are regional Attorneys General. Obviously these posts must be staffed by men whose sympathies–if not loyalties—lie with the political philosophy of the Eisenhower administration.

For, realistically, these are the men who can implement or impede the program and policies laid down by the Attorney General. Obviously, political hacks of either party should not be tolerated in these all-important posts. We need men of wisdom and good counsel, men learned in the law and its application.

The post of U. S. Attorney carries with it grave responsibilities. His is the opportunity to interpret and apply the social concepts involved in law enforcement. At his discretion is the choice of

wielding the law as a menacing club or as a protective shield. And as much injustice can be perpetrated by the Attorney who is guilty of "brutality in thinking" in his interpretation of the law as can be attributed to the police officer who uses brutality in the enforcement of the law.

To fill these attorneyships with men—who as you know must be appointed by the President with the advice and consent of the Senate—is not an overnight operation. Thus far, 15 new U. S. Attorneys have been nominated. We are now weighing the merits of qualifications of each incumbent. And concurrently we are exploring the availability of other possible nominees in each district —a check-up of over several hundred candidates.

Meanwhile we have instituted a few new procedures, which may be of some interest to you.

Every U. S. Attorney upon appointment must give up private practice. Here again we point no finger at the previous administration. But it seems that the conduct of a U. S. Attorney must be above suspicion and reproach. Caesar's wife must render to Caesar the things that are Caesar's—exclusively and full time. Besides there is enough Government business to take care of, without "schlepping the windows" of one's own private store.

Another innovation is our indoctrination course for U. S. Attorneys. Each man is being brought to Washington for interviews with the President, with key members of the Congress and the Department of Justice. Each will be given a complete grounding in the objectives and policies of the administration—what he is expected to contribute to the overall progress of the Department; what help, in turn, he can expect from the seat of government.

Hitherto, in many cases, attorneys in the field were neither consulted nor sufficiently instructed on matters properly within their province and jurisdiction. Tightly held authority on the part of the Washington headquarters, and loosely defined objectives very often resulted in hamstringing the efforts of the field attorneys to perform their functions and adequately represent the Government in regional affairs.

This lack of knowledge and inconstant delegation of authority, thoroughly undermined the morale and efficiency of our regional offices in the past.

Other innovations have been to put an end to secrecy in the granting of pardons and to the names of sponsors for pardons—to abolish the so-called "health" policy in tax cases, thereby returning to the courts the decision as to whether a taxpayer is well enough to stand trial—to revise the procedure under which Government employees are tested for security purposes to grant them a fairer hearing—to give more active cooperation to the FBI in its efforts to guard our internal security.

But all these activities will fail of their central purpose if we do not succeed in instilling in the Bench, the Bar and the public generally a respect for the professional ethics and competence of the Department of Justice. Toward this goal we are working night and day. And in reaching it, we ask for your individual and collective support. The leadership of The Association of the Bar of the City of New York in maintaining the integrity of our legal institutions has been notable. We ask you now to lend your powerful voice to help rebuild public confidence in the world's largest law office—the United States Department of Justice.

Toward a New Atomic Policy

By Oscar M. Ruebhausen

There is increasing evidence that Americans are entering a period of healthy concern about our national atomic policies. There is a restlessness about where we should be headed. There is doubt whether we have adopted the right way of getting where we want to go. There is a growing desire for a change in our atomic policies and in the basic legislation which established them.

I am confident, however, that neither the people nor the Congress yet know with any certainty what new policies or legislation they wish.

The solution for our present uncertain state of affairs lies in increased and informed public discussion. In short the normal processes by which a democracy makes up its mind must be allowed to operate upon our atomic program. I say "allowed to operate" because the secrecy behind which our atomic program is conducted has inevitably curtailed essential public debate. There is much, however, that can be done to make up for this deficit and I shall suggest several desirable steps as we proceed.

THE NEED FOR A CHANGE

As the years go by, it becomes clearer that the Atomic Energy Act of 1946 was the product of a series of misconceptions. It is interesting to read, with the benefit of hindsight, the 1946 report of the Special Senate Committee which drafted the Act. That report gave five reasons for recommending a government monopoly of atomic energy. Not one of those reasons is persuasive today.

Editor's Note: Mr. Ruebhausen, Chairman of the Association's Special Committee on Atomic Energy, served during the war as General Counsel to the Office of Scientific Research and Development. The paper published here is based on a lecture Mr. Ruebhausen gave before the American Power Conference in Chicago on March 25, 1953.

The Atomic Energy Act was framed at a time when we, as a nation, had neither the knowledge, the experience nor the perspective with which to handle atomic problems. It is not surprising that seven years later we should feel keenly the need for a change in that Act.

You will recall that the Atomic Energy Act contains a unique legislative declaration of the sense of inadequacy with which the Congress faced the atom in 1946. Section 1 of the Act, among other things, states that "the effect of the use of atomic energy for civilian purposes . . . cannot now be determined"; that "unknown factors are involved"; and, significantly, that "any legislation will necessarily be subject to revision from time to time."

In 1946, our atomic energy program was exclusively a military weapons program. It had produced in time of war, after an urgent race, a devastatingly powerful military instrument. In 1946, accordingly, atomic energy legislation was conceived, principally, as the means for harnessing that military instrument.

Today, however, while we should not under-estimate the importance of atomic energy in our weapons program, atomic fission is beginning to assume its proper perspective. Weapons are only a part of what is in fact a fabulous new enterprise opening up whole new areas of science and technology. Atomic energy holds great potentialities, not only for power development, but also for new industries, new medicines, new products, new processes. So vital and dynamic a phenomenon cannot be effectively developed by legislation which is oriented principally to a military weapon.

Back in 1946, we, as a nation, also conceived that we were in possession of one vast military secret. We thought the secret could be kept and that secrecy would hurt us less than it would hurt our enemies. Such would not, I think, be our judgment today.

Atomic energy is not a single military secret but a new area of knowledge only a portion of which is military in nature. Moreover, we now know, first, that we failed in our efforts to keep our "atomic secret"; second, that the larger the atomic area grows the more cumbersome, costly and impossible will be the task of

enforcing secrecy; and third, that secrecy is essentially negative —real security will come only from an affirmative policy of achievement at the maximum possible national rate.

In 1946 we also acted on the hopeful assumption that some agreement for international control of atomic energy would be reached. In order to improve our ability to carry out such an international agreement, we created a Government monopoly. Today, however, the hope of any such international accord is not very widely entertained. Certainly, such a hope would not offer any sound basis for legislation.

The necessity for a re-examination of the Atomic Energy Act of 1946 is, thus, clear. The premises which once justified the policies of secrecy and absolute Government monopoly have ceased to be valid. Those policies should not be perpetuated by default.

The call for a change, however, does not rest solely on the fact that the reasons for what we did in 1946 were wrong. Since 1946, we have been able to lift the curtain on atomic knowledge. While the full boundaries are by no means explored, there is a far better appreciation of the phenomenon with which we are dealing. There is optimism, for example, that the industrial potentialities of atomic power are reasonably within our grasp. If any changes either in atomic policies or in atomic legislation will speed the realization of industrial power those changes should be made unless some compelling national interest requires otherwise.

A few months ago, Commissioner Dean said that we are today at a cross-roads in the peaceful development of atomic energy. He added that there is before the Commission the question of deciding how much attention it can devote to the peaceful development of atomic energy in the midst of its heavy responsibilities for atomic weapons.

It seems to me there are three broad alternative courses of action open to us: one is to let the Atomic Energy Commission concentrate on the military development of atomic energy and postpone all peaceful or industrial developments. Such a course is unthinkable, for it would deliberately neglect a rich heritage.

It would turn our backs on the full fruits of atomic energy for the public good.

A second course is to have the Atomic Energy Commission, pursuant to its Government monopoly, vigorously pursue both the military and the industrial aspects of atomic energy.

A third course of action would be to concentrate the Commission's efforts on the purely military aspects of atomic energy and shift to private industry the major responsibility for the full development of its commercial and peaceful aspects.

Logically, I suppose, there is a fourth possible alternative:—namely to place the entire burden of atomic energy development upon private industry. But this course also is unthinkable. The public stake in atomic energy is too large and too vital. Atomic energy must continue to be a primary concern of government.

The alternatives, therefore, are really two: Shall the job of harnessing the atom to our industrial machine be done by the Government alone or shall it be done by the Government in partnership with a regulated private industry. There is no doubt in my mind which alternative the American people will choose. Government monopoly or any monopoly of an enterprise so vast as atomic energy is alien to our philosophy and to the principles which guide us as a nation. This is particularly so when monopoly is coupled with secrecy—for secrecy is the enemy of democracy. There is also a point at which an unbridled Government monopoly of an enterprise so vast as atomic energy would run afoul of constitutional limitations. Finally, dedicated and able as the public servants in this field have been, they cannot match in vitality, resourcefulness, ingenuity and accomplishment the free competitive system of enterprise.

It is appropriate, I think at this point to recall what Senator Millikin said in January 1947. As the Atomic Energy Commission was taking up its great burdens under the Act, the Senator reminded the Commission:

> "It was the intention of Congress that these extraordinary grants of power that we have given to the Government, both on the operating side and on the patent side,

would be restored to private enterprise at the very first time that it can be done, consistent with safety and the national welfare."

PROCEDURE FOR CHANGE

Such, very briefly, are some of the reasons for the frequent assertion that there should be greater industrial participation in the atomic energy business, that there should be less secrecy, and that there ought to be a change in the law.

It is one thing, however, to say that there should be greater industrial participation, less secrecy and new legislation—it is quite another proposition to write the new law and to carve out an affirmative new program which will properly balance all of the competing considerations of public policy.

It is a complex business, for example, to draw the dividing line between data which can safely be released and information which, at all costs, must be held in secrecy. It is equally complex to determine how private enterprise is to be brought in as a partner in the atomic enterprise. How can its participation be regulated so as not to favor one group over another, so as to protect health and safety, and so as not to interfere with the purely military programs? Should there be a subsidy to stimulate private participation—if so, what form should it take? How are patent rights to be allocated when they arise partly from work financed with public funds and partly from work done with purely private resources?

These are questions which will require great patience and wisdom to resolve. Unfortunately, there is today no substantial body of informed public opinion that can be drawn upon to help find the answers. And if the present policy of secrecy continues, I see no way in which a truly informed public opinion can be developed.

Secrecy has impaired the ability of our democracy to do the thinking and conduct the debate which is essential to constructive action on atomic matters. This, to my mind, is the number

one problem in the atomic field. If the secrecy problem can be solved, I am confident that the other problems will immediately become more manageable.

Even with our present approach to secrecy, however, the situation is not hopeless. There are a number of constructive steps which can be taken. All of them should be taken promptly.

First, I believe that President Eisenhower should promptly appoint a Commission of Inquiry to review the operations under the Atomic Energy Act for the last six years, to evaluate the Commission's programs and policies, to examine the extent to which the Government monopoly of atomic affairs and the secrecy with which it is cloaked can be relaxed, and to make recommendations to the President, the Congress and the people for a course of action to guide the administration of our atomic enterprise in the immediate future.

I first made this suggestion of a Presidential Commission of Inquiry before the National Industrial Conference Board last October. It was my hope that such a Commission could be set up promptly by the new Administration and that it would be composed of leading scientists, industrialists and citizens who have had no previous participation in the administration of the atomic program. Such a group could bring a wholly fresh and objective point of view to our atomic problems.

A similar proposal has been made by David Lilienthal. He recently urged the creation of a citizens' commission to prepare recommendations for new legislation to replace the present Act. Mr. Lilienthal believes that a very drastic re-writing of the atomic energy legislation is required. He particularly urges a strong and independent citizens' commission since we are faced, he says, with "the amazing situation that in this whole new field the question of who shall think about problems, how much effort shall be expended in certain directions, what ideas may be pursued, is all a matter for the Government to decide. It is as bad to have Government control of thinking in this field as in the field of civil liberties."

Intensive and thoughtful review by an able and independent citizens' commission could in part make up for the fact that there has been no real accounting to the public by the Government for its stewardship of atomic affairs. Such an accounting is often painful but it is the very essence of a free society. This, moreover, is an ideal time for such an inquiry. A new administration is about to take over the direction of our atomic program. An independent citizen's inquiry would strengthen the confidence of the American people in that program and in the new direction it is to receive.

Second. Critical as is the need for fresh guidance from objective citizens of great vision, a second essential step is for the Atomic Energy Commission, itself, to submit a report. Such a report should make public the Commission's recommendations for revising the Atomic Energy Act and, particularly, for relaxing the Government monopoly over all atomic affairs. The Commission enjoys the confidence of the American people. It is the only body exclusively in possession of all the pertinent facts pertaining to our atomic energy program. It has a responsibility to the American people, on the basis of the information in its possession, to publish its recommendations for the revision of the basic statute.

In this connection there is an interesting provision in the Act itself, Section 7(b), which provides that "whenever, in its opinion, any industrial, commercial or other non-military use of fissionable material or atomic energy has sufficiently developed to be of practical value, the Commission shall prepare a report to the President stating all the facts with respect to such use . . . the effects of such use and the Commission's recommendations for necessary or desirable supplemental legislation. The President shall then transmit this report to the Congress, together with his recommendations."

While no industrial or commercial end use of fissionable material may be sufficiently developed so as strictly to warrant a report under Section 7(b) of the Act, I do not think the intention of Congress in this regard should be narrowly construed. The

intention was, I think, to charge the Commission with a continuous and compelling responsibility, first, to survey those areas of the atomic energy program which have other than military applications and then to recommend the legislative changes which will open such areas to the participation of private enterprise. Certainly there must be locked behind the atomic stockade much information having important commercial or industrial applications. I believe it is the Commission's responsibility under Section 7(b) to report to the President with respect to such matters.

A *third* constructive step which can also be promptly taken is one which was first recommended by former Commissioner Keith Glennan. Last November Dr. Glennan urged the creation of a national association of atomic industries. Such an association would provide a forum where industry could do the best possible thinking for the advancement of the peaceful uses of atomic energy. Such a forum would also enable industry to develop an informed position with respect to atomic policies to serve not the narrow interests of a few, "but to stimulate the industrial development of atomic energy for the good of all." *

It seems to me that such an association would stimulate private citizens to enlightened discussions of atomic policies. This again would be a partial substitute for the present lack of informed public debate.

There is one other constructive step which is equally desirable and which can be promptly taken. The Joint Congressional Committee on Atomic Energy should schedule hearings—public hearings—looking to an increased industrial participation in the atomic energy business. Congressional hearings properly handled are one of the great educational devices available to a democracy. It is particularly important that maximum use be made of this device in the field of atomic energy where other channels of public information have been so gravely handicapped.

* Since this lecture was delivered an Atomic Industrial Forum Inc., a New York membership Corporation has actually been organized in furtherance of Dr. Glennan's suggestion.

NECESSARY CHANGES

If each of these four constructive steps is taken—namely first, the appointment of a citizens' commission, second, a report and recommendations by the Atomic Energy Commission itself, third, the formation of an atomic industrial forum, and fourth, the holding of public Congressional hearings—I am confident that a healthy and intelligent public re-examination of our national atomic policy will result. Such a re-examination must precede any sound Congressional legislation in this field. Such a re-examination, moreover, is urgently needed if we are to drive forward with vigor and imagination to a maximum realization of the potentialities inherent in the atom.

Even now, however, it is possible to visualize the outlines of a new atomic policy. Four elements of such a new policy are reasonably clear. They are these:

First, the private ownership of atomic facilities should be permitted.

Second, the private ownership of fissionable materials should be permitted but closely regulated by the Federal Government.

Third, the definition of restricted data should be drastically revised and the role of secrecy as an affirmative instrument of national policy should be reduced.

Finally, there should be some recognition of private patent rights in the atomic field to the extent they do not involve military weapons.

If a new atomic policy is to be founded, as I believe it should be, on these four new elements, an amendment of the Atomic Energy Act is clearly required.

Let us take a brief look at each of these four elements of a new atomic policy.

The Ownership of Facilities. Section 4 of the Atomic Energy

Act provides that the United States shall be the exclusive owner of all facilities for the production of fissionable material except, to a limited extent, certain research facilities.

If there were to be a transfer of all atomic facilities to some international body, Government ownership of atomic facilities might still be wise. It would certainly simplify the legal steps for such a transfer. Since there is to be no such transfer, however, technical ownership in the United States Government serves no useful purpose which could not be as readily achieved in some way more consistent with our traditions. On the other hand, the elimination of this provision of the Act will not of itself bring about private participation in the atomic energy business. Yet, unless private ownership of facilities is permitted, private participation may be needlessly slowed up. Private ownership will facilitate the financing of private atomic enterprises and will contribute to management efficiency. Repudiation of the principle of exclusive Government ownership of atomic facilities will also, I believe, have a healthy effect on the national approach to atomic problems. It will shift some of the responsibility and, with it, the initiative in atomic matters to private hands.

The Ownership of Fissionable Materials. Closely related to this question of the ownership of atomic facilities is the problem of who may own fissionable materials. In a sweeping provision, Section 5 of the Atomic Energy Act automatically vests in the Commission all rights in any fissionable material which is within the jurisdiction of the United States.

Fissionable materials are clearly affected with the public interest. The public has a vital stake in their manufacture and in their use. This public interest can be served only by the very closest of Governmental regulation. Such regulation should extend not only to matters of public health, safety and the national security, but also to the allocation, utilization and requisitioning of critical items. These are clearly difficult problems. They will require wise administration and flexible regulation. Complex as these problems are, absolute Government ownership of fissionable materials is not the answer. With ownership of fission-

able materials goes the main initiative for forward progress in peaceful atomic uses. With it also go the burdens and the risks of failure. Such initiative and risk-taking are not the distinguishing characteristics of Government—no matter how able and enlightened. Initiative and risk-taking are, however, the very essence of free private enterprise. They should be allowed to go to work upon atomic energy.

The Control of Information. The section of the Atomic Energy Act which above all others, to my mind, urgently requires revision is Section 10. Section 10 defines what constitutes "restricted data," it gives the Commission control over the dissemination of such data and severely punishes any unauthorized or unlawful disposition of such data.

The key provision is the definition of restricted data. That definition is exceedingly broad.

We would expect restricted data to include all data concerning the manufacture or utilization of atomic weapons. The Act, however, goes much further. It also provides that restricted data shall include all data concerning "the production of fissionable material" and, what is more, "the use of fissionable material in the production of power." The only exception is for "data which the Commission determines may be published without adversely affecting the common defense and security."

Thus, all data in the atomic energy field is, you might say, born into this world secret; and it stays secret until the Commission feels that it can meet the burden of proving that the release of such data cannot adversely affect the common defense and security.

Such a definition is unduly restrictive. If interpreted literally, little could be released. For even the most innocuous information might, under certain conceivable circumstances, adversely affect the common defense and security.

Our basic atomic legislation should I think reflect a more balanced approach to secrecy. There should be more of a weighing of the total good that may result from publication as against the possible harm. There should be more emphasis on the affirmative

policy of achievement as against the dubious gains from concealment. There should be some difference in treatment as between data pertaining to military applications of atomic energy and the non-military processes. The legislation, moreover, should reflect that, in the last analysis, real security will come only if our rate of progress exceeds that of our enemies. Security is relative and not absolute. Hence, control over atomic information should be directed above all else, not to the end of concealment, but to the assurance of our own maximum possible rate of progress in all phases of atomic matters.

I have never known a man holding four aces in a poker game to throw one of them deliberately away. Yet in this life and death poker game of atomic cold war we have, through secrecy, neglected one of the aces available only to a democracy such as ours—namely, freedom of information. We have elected to compete at less than our full strength.

Section 10 of the Atomic Energy Act should be revised. In this connection I make two specific suggestions. *First,* suggest that the definition of restricted data be limited only to data concerning the manufacture or utilization of atomic weapons and such other data as the Commission, from time to time, may affirmatively declare cannot be published without adversely affecting the common defense and security. Under this proposal data concerning the production of fissionable material or the use of fissionable material in the production of power would become public unless the Commission found positive reasons to the contrary. The burden of proof would be completely reversed.

A change in the definition of restricted data would not, of itself, be enough. Habits formed in the six years of operation under the present law may be hard to break. So my *second* suggestion would be, once the definition was changed, that the Commission appoint a special panel to review all secret data in the light of the new policy. Such a panel should have a specific mandate from the Commission to declassify all information which is not in the weapons field unless it is satisfied that such declassification would adversely affect the common defense and security.

Patents. The fourth principal area for legislative attention is Section 11—the patent section.

As the Act now stands no patent shall be granted for any invention or discovery which is useful solely in the utilization of fissionable material or atomic energy for a military weapon and no patent shall confer any rights to the extent any invention or discovery is used in the utilization of fissionable material or atomic energy for a military weapon. With such provisions I personally cannot disagree.

The Act, however, goes further. It provides that no patent shall be granted for any invention or discovery which is useful solely in the production of fissionable material. Likewise, it provides that no patent shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the production of fissionable material. I do not see what is to be gained by such a repudiation of the incentives and benefits of the patent system in the case of fissionable material for other than military purposes.

If inventions or discoveries have uses which are not military or governmental, then the rights to such private uses should be enjoyed by those who have contributed to their discovery.

If the Government makes a discovery through Government financed research, there should, clearly, be no private patent rights. If, on the other hand, the know-how or the capital of private industry is drawn upon in the making of such a discovery, then the contribution of private industry to that discovery should be recognized in the distribution of the patent rights.

The form of such recognition will, of course, vary in every case. What is fair will depend on a wide variety of factors. Such matters are, however, subject to negotiation and reasonable allocation. It is only with the principle of fair recognition for the contributions of private persons that I am presently concerned. To the extent that the Atomic Energy Act repudiates this fair principle in the non-military and non-governmental uses of atomic energy, I believe it should be amended.

This brings me again to my central theme—the Atomic Energy

Act represents a unique departure from the traditional principles of our Government. The legislation was prepared by a nation deeply disturbed by, and deeply ignorant of, the force with which it must deal. Because of some misconceptions we adopted a legislative expedient which is inconsistent with the principles that have made us strong as a nation. We passed the Act with misgivings—and we did it with the intention that it should be temporary.

I think the time has come not only to take another look but to restore atomic energy to the normal framework of our democratic society.

Only with a change of policy can we bring into play the full vitality of the American people and American industry. We will need every bit of that vitality in the days ahead.

Review of Recent Decisions of the United States Supreme Court

By Joseph Barbash and Robert B. von Mehren

SHAUGHNESSY V. UNITED STATES OF AMERICA, EX REL. MEZEI

(March 16, 1953)

Relator Mezei, a native of Gilbraltar who had lived lawfully in the United States since 1923, left the United States in 1948 for Europe to visit his dying mother. Nineteen months later he secured a quota immigration visa from the United States Consul in Budapest and took ship for the United States. On his arrival the Attorney General ordered him excluded, refusing on security grounds to allow a hearing. During a two-year period several attempts were made to deport Mezei, but no country would have him. Forced to stay on Ellis Island, he petitioned for habeas corpus, alleging unlawful confinement.

Not questioning the exclusion order, the District Judge asked the Attorney General to show that pending deportation Mezei's confinement on Ellis Island was necessary to public safety. On the Government's refusal to make any showing, even *in camera*, the District Court ordered that Mezei be permitted to enter the United States on posting bond. The Court of Appeals affirmed, Judge Learned Hand dissenting. The Supreme Court granted certiorari and reversed 5–4, Mr. Justice Clark writing the opinion.

The Court's decision was based on three major premises, all supported by authority:

1. Any alien may be excluded from the United States without a hearing.
2. An alien who had been a resident has no greater rights when he seeks re-entry than an alien seeking original entry—except where his absence was as a seaman, in which case he is not really seeking re-entry.
3. An alien who has been permitted to land at Ellis Island is no better off than an alien who has not been permitted to land.

From these premises, the Court proceeded by simple syllogistic reasoning to find that neither Constitution nor statute had been violated. As to Mezei's dilemma it said:

> "That exclusion by the United States plus other nations' inhospitality results in present hardship cannot be ignored. But, the times being what they are, Congress may well have felt that other countries ought not shift the onus to us; that an alien in respondent's position is no more ours than theirs. Whatever our individual estimate of that policy and the fears on which it rests, respondent's right to enter the United States depends on the congressional will, and courts cannot

> substitute their judgment for the legislative mandate. *Harisiades* v. *Shaughnessy*, 342 U. S. 580, 590–591 (1952)."

Mr. Justice Jackson, joined by Mr. Justice Frankfurter, conceded that Mezei could have been excluded from the United States without a hearing if exclusion could have been accomplished by just turning him back and returning him by ship to his point of embarkation. But in this case Mezei was not simply being excluded; he was being confined indefinitely. This was not a violation of substantive due process, for the Government may properly decide that for security reasons aliens must be detained at Ellis Island even though they can't go elsewhere. It was, however, a violation of procedural due process. Even a non-resident alien cannot be deprived of liberty without procedural due process, and as a practical matter Mezei was deprived of liberty. Procedural due process requires that Mezei be "informed of . . . [the Government's] grounds and have a fair chance to overcome them." This is particularly "due him when he is entrapped into leaving the other shore by reliance on a visa which the Attorney General refuses to honor."

Mr. Justice Black, and Mr. Justice Douglas dissented in a separate opinion, perhaps because they were unwilling to join Mr. Justice Jackson's observations concerning substantive due process. They agreed, however, with Mr. Justice Jackson's, reason for dissent:

> "Mr. Justice Jackson forcefully points out the danger in the Court's holding that Mezei's liberty is completely at the mercy of the unreviewable discretion of the Attorney General. I join Mr. Justice Jackson in the belief that Mezei's continued imprisonment without a hearing violates due process of law."

Possibly Mezei's case is so unique that it may be considered a sport. Yet it is a case for the casebooks and for the classes in Constitutional Law if only because it suggests that unfortunate results may follow when a court equates legal analysis with logical analysis without re-examining the breadth of the logical premises. It is to be hoped that if the Court's decision was really based on a debatable inarticulated premise, that premise was not that an entering alien has "no rights at all," but rather that Ellis Island is not St. Helena.

IN RE DISBARMENT OF ABRAHAM J. ISSERMAN

(April 6, 1953)

Isserman, one of the attorneys for the defendants in the *Dennis* case, was disbarred by the Supreme Court of New Jersey because of his misconduct in that case. 9 N.J. 269 (1952). Thereafter the Supreme Court of the United States, acting in accordance with Paragraph 5 of Supreme Court Rule 2, required Isserman to show cause why he should not be disbarred by it. Isser-

man's showing convinced only four of the Justices and, since Justice Clark had disqualified himself, Isserman was disbarred by a four-to-four split.

The prevailing opinion was written by Chief Justice Vinson. Because the Supreme Court does not conduct independent examinations for admission to its bar, it places great reliance upon the state bars. Therefore, although disbarment by a state does not automatically disbar a member of the Supreme Court bar, the state's finding will be followed unless there is "some grave reason to the contrary."

The burden of showing a "grave reason to the contrary" was upon Isserman. He attempted to meet this burden by urging (1) that he had been punished enough for his contempt and that to disbar him was excessive, vindictive punishment; (2) that he had not been found guilty of conspiracy; and (3) that at most a period of suspension, such as that imposed on him by the District Court for the Southern District of New York, was appropriate.

The prevailing Justices rejected all of these arguments. The first was held to fail because it "misconceives the purpose of disbarment":—The individual has no vested right to practice law and, consequently, the only issue before a court on a disbarment proceeding is whether disbarment is necessary to protect the court "itself, and hence society, as an instrument of justice." The second was rejected because to make "it the turning point in this disbarment proceeding would be tantamount to . . . stating that recurring disobedience is not cause for disbarment unless accompanied by a conspiracy." Isserman's final contention was held irrelevant because the District Court had not had the New Jersey disbarment before it when it acted.

Four Justices—Jackson, Black, Frankfurter and Douglas—thought that there was "good cause for withholding this Court's decree of disbarment." They joined in an opinion written by Justice Jackson. Their fundamental position was that the Supreme Court "should not accept for itself a doctrine that conviction of contempt *per se* is ground for a disbarment." They could not recall any previous instance where a lawyer had "been disbarred by any court of the United States or of a state merely because he had been convicted of a contempt."

Isserman had already paid heavily for his contempt. "If the purpose of disciplinary proceedings be correction of the delinquent, the courts defeat the purpose by ruining him whom they would reform. If the purpose be to deter others, disbarment is belated and superflous" because Isserman's punishment so far is an adequate deterrent.

Finally, the dissenting Justices recognized that law is a contentious craft and that one of the attributes of justice is mercy:

> "Perhaps consciousness of our own short patience makes us unduly considerate of the failing tempers of others of our contentious craft. But to permanently and wholly deprive one of his profession at Isserman's time of life, and after he has paid so dearly for his fault, impresses us as a severity which will serve no useful purpose for the bar, the court or the delinquent."

WESTERN PACIFIC RAILROAD CORP. ET AL. V. WESTERN PACIFIC RAILROAD CO. ET AL.

(April 6, 1953)

The practice of the courts of appeals with respect to hearings *en banc* is varied. The Second Circuit never sits *en banc*. The Third Circuit often does, as does the Ninth. Those circuits which sit *en banc* derive authority to do so from Section 46(c) of Title 28 U.S.C., which reads as follows:

> "Cases and controversies shall be heard and determined by a court or division of not more than three judges, unless a hearing or rehearing before the court in banc is ordered by a majority of the circuit judges of the circuit who are in active service. A court in banc shall consist of all active circuit judges of the circuit."

In the instant case this language is fully considered by the Supreme Court.

The Railroad Corporation sought an accounting from the Railroad Company on the ground that the latter had unjustly enriched itself by wrongfully appropriating a "tax loss" incurred by the Corporation and applying that loss to the sole benefit of the Company.

The District Court denied relief and the Court of Appeals affirmed by a two-to-one vote. The Corporation then applied for a rehearing before the Court of Appeals *en banc*. The same bench that had heard the case denied rehearing and struck the request that the rehearing be *en banc*. The Corporation then filed a second application protesting that the action of the bench in striking out the request for a rehearing *en banc* was error "because such a request was authorized by statute and required the attention of the full court." The full Court of Appeals declined to entertain this second application. The Supreme Court granted certiorari to resolve, *inter alia*, "the *en banc* questions precipitated by this litigation."

The majority, in an opinion written by Chief Justice Vinson, first analyzed Section 46(c). Its legislative history was reviewed and the Court concluded:

> "In our view, §46(c) is not addressed to litigants. It is addressed to the Court of Appeals. It is a grant of power. It vests in the court the power to order hearings *en banc*. It goes no further. It neither forbids nor requires each active member of a Court of Appeals to entertain each petition for a hearing or rehearing *en banc*. The court is left free to devise its own administrative machinery to provide the means whereby a majority may order such a hearing."

The Court's next step was to promulgate, pursuant to its "general power to supervise the administration of justice in federal courts," "certain fundamental requirements" to be observed by the courts of appeals. Three requirements are stated: (1) a court of appeals must have a practice understood both by the court and the litigants before it; (2) the litigants must be left free "to suggest" to the Court, or that portion of the court which is given

the power of decision, the reason why their particular case should be considered by all the judges; and (3) the question of whether a case should be heard *en banc* must be considered separate and apart from the issue of whether there should be a rehearing.

Finally, the Supreme Court considered the record of the proceedings below. It concluded that the decision below may have been based on an Alphonse-Gaston confusion as to the scope of Section 46(c), *i.e.,* that the three judge bench may have denied rehearing *en banc* on the ground that it lacked power to grant such a rehearing and that the full Court of Appeals may have denied the second application for rehearing on the ground that the power was in the three judge bench. Therefore, the order denying rehearing *en banc* and the order denying leave to file a motion to reinstate the petition for rehearing *en banc* were vacated; the Corporation was given leave to file a motion to reinstate its petition for rehearing *en banc;* and the case was remanded to the Court of Appeals for further proceedings.

Justice Frankfurter filed a concurring opinion in which he accepted the majority's construction of Section 46(c) but rejected their suggestion that a court of appeals could delegate the authority to determine whether there was to be a rehearing *en banc* to the three judge court which originally heard the case on the merits. Justice Frankfurter said:

> ". . . It may be proper to require petitions for rehearing *en banc* to be made to the panel in the first instance, but to allow the discretionary function under §46(c) to be discharged definitively by the panel whose judgment may call for *en banc* action is to treat the statute as an empty, purposeless form of words."

Justice Jackson dissented. He believes "that *en banc* hearings should be discouraged in most cases and left to be initiated by the judges *sua sponte,* . . . . [and] that the whole practice on the subject is best left to each court of appeal." Therefore, he concluded that the Court of Appeals had not committed a procedural error.

He then went to the merits and found that an error of substance had been made which required the case to be reversed and remanded.

When the Federal Rules of Civil Procedure were promulgated, the optimists proclaimed that federal procedure had been simplified; that the ancient procedural labyrinth had been destroyed and, like Carthage, plowed under and sown with salt. Perhaps part of their optimism was justified. However, much of the old complexity has been replaced by new. The instant opinion, as Justice Jackson points out, may lead to further complication: "There may yet be chapters in future manuals of federal procedure exploring the differences between a motion and a 'suggestion' . . . ."

The Supreme Court's opinion would not seem to affect the Second Circuit's practice of never sitting *en banc.* Although litigants may now "suggest" that a hearing *en banc* is appropriate, there is nothing in the opinion which requires a circuit court to accept such a suggestion.

FORD MOTOR COMPANY V. HUFFMAN

INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, CIO. V. HUFFMAN

(April 6, 1953)

When an employee returns to his employer from military service, the Selective Service Act of 1940 requires that he be given full seniority credit for the time spent in service. In a collective bargaining agreement the petitioners, Ford and Auto Workers Union, went further. They agreed that the same seniority credit for military service given returning employees under the Act be given also to new employees—those who had not worked for Ford before military service. The respondent Huffman, who had left Ford to enter the service and then had returned, found that this contract provision resulted in his having less seniority than some new employees. He thereupon brought an action in a Federal District Court to declare the provision invalid and to enjoin its application, on two grounds:

(1) The provision was a violation of the Selective Service Act; and

(2) in making it the Union exceeded its authority as a collective bargaining representative under the National Labor Relations Act.

The District Court dismissed the action, stating that the agreement "expressed an honest desire for the protection of the interests of all members of the Union and is not a device of hostility to veterans." The Court of Appeals for the 6th Circuit agreed that there was no violation of the Selective Service Act, but held, one judge dissenting, that the agreement unlawfully discriminated in favor of some union members as against other union members. 195 F. 2d 170. The Supreme Court granted certiorari and reversed the Court of Appeals unanimously, Mr. Justice Burton writing the opinion.

The decision was on the merits, although the Union had asserted that the NLRB, not the District Court, had exclusive primary jurisdiction over the matter because in essence the complaint had alleged an unfair labor practice. The Court said the jurisdictional question had not been argued in the Court of Appeals and that its conclusion on the merits made unnecessary any jurisdictional decision.

On the merits the Court summarily dismissed the contention that the Selective Service Act had been violated. It then proceeded to find that the Union had not exceeded its authority.

The Supreme Court recognized that there are limitations on the authority of a collective bargaining representative under the National Labor Relations Act, limitations similar to those imposed on railway unions by the Railway Labor Act, as interpreted by the Court in *Steele* v. *Louisville & N.R. Co.*, 323 U.S. 192 (1944); *Tunstall* v. *Brotherhood of Locomotive Firemen*, 323 U.S. 210 (1944); and *Brotherhood of Railroad Trainmen* v. *Howard*, 343 U.S. 768 (1952). The union must "make an honest effort to serve the inter-

ests" of all its members "without hostility to any." Nevertheless, the Court pointed out, it is inevitable that any agreement may benefit some individual employees more than others, and "complete satisfaction of all who are represented is hardly to be expected." Because of the very nature of bargaining:

> "A wide range of reasonableness must be allowed a statutory bargaining representative in serving the unit it represents, subject always to complete good faith and honesty of purpose in the exercise of its discretion."

Applying these principles, the Court observed that seniority was involved and that seniority is an ordinary subject of collective bargaining. The agreement on seniority not only was "within reasonable bounds of relevancy," but also was in accord with the practice followed by the Federal government for its employees and the recommendations of a Department of Labor committee endorsed by the Secretary of Labor. Finally, the provision might well have prevented more friction among the employees represented by the Union than would have adherence to the minimum requirement of the Selective Service Act.

Although this was an easy case for the Supreme Court because of the nature of the provision involved, the opinion has broader significance. On the one hand, its use of the analogy of the Railway Labor Act leaves little doubt that the Court would probably hold invalid any racially discriminatory provision in a collective bargaining agreement negotiated by an NLRB–protected union. On the other hand, the opinion removes fears that the doctrine of the Railway Labor Act racial discrimination cases would be extended to permit general judicial intereference with the terms of collective bargaining agreements solely because certain provisions benefit some employees at the expense of others. While the Court will not permit union leaders to make arbitrary use of the power given them by the Federal government, it will defer to their honest business judgment, perhaps in the same way that courts have traditionally deferred to the decisions of disinterested directors.

Committee Report

COMMITTEE ON FOREIGN LAW

COMMITTEE ON INTERNATIONAL LAW

THE PROTECTION OF AMERICAN INVESTMENTS ABROAD

The Association of the Bar of the City of New York approved at its meetings of March 13, 1951, and of May 13, 1952, joint reports of the Association's Foreign Law and International Law Committees which dealt with the protection of private investments abroad.[1] Among the impediments and obstacles with which American investment has been faced in other countries is that of taking property by nationalization and other measures without compensation of foreign owners of such property. We may recall what was stated on the Inadequacy of Compensation on Nationalization or Other Taking in the first Report[2]:

> "a. Is it sufficient that the foreign investor is given the same treatment as the native investor (minimum standard)?
>
> b. Is compensation adequate if given in long-term government bonds or in long-term bonds of the nationalized industry, interest being dependent upon earnings?
>
> c. Is the procedure for determination of the amount of compensation and its valuation adequate?
>
> d. Is participation of representatives of the American investors in such procedures assured, both on the domestic and international level (special arbitration)?"

The importance of this issue was emphasized when the President of the United States, in his Message on the State of the Union of February 2, 1953,[3] proclaimed that the policy of our government was

> "to encourage the flow of private American investment abroad. This involves, as a serious and explicit purpose of our foreign policy, the encouragement of a hospitable climate for such investment in foreign nations."

Editor's Note: This report will be presented to the Annual Meeting of the Association on May 12, 1953.

[1] *The Record,* vol. 6 p. 127 (1951); vol. 7 p. 219 (1952).

[2] Ibid., p. 131.

[3] Dept. of State Bulletin, vol. 28 n° 711 p. 207 (1953).

The same viewpoint prevailed also in the U. S. and U. K. Economic Discussions of March 7, 1953, where it was agreed that the essential elements of a workable and productive economic system within the free world should include[4]

> "the creation of conditions, both by creditor and by debtor countries, which foster international investment and the sound development of the resources of the free world. In this connection, the government of the United States emphasized its intention to encourage the flow of investment abroad."

To create a "hospitable climate" for such private foreign investment, it is a prerequisite that adequate protection be secured against nationalization or other taking of foreign assets without compensation. It is in conformity with the established principle of international law and of American economic policy that nationalization of foreign private investments must be conditional upon prompt, adequate and effective compensation.

Attempts at questioning or limiting said principle may result from the ambiguous language and the omission of mention of such principle of compensation in the resolution of the General Assembly of the United Nations of December 21, 1952[5] which affirmed the right of any country to exploit freely its national resources, in passing the following[6]:

> "*The General Assembly*
>
> Bearing in mind the need for encouraging the under-developed countries in the proper use and exploitation of their natural wealth and resources,
>
> Considering that the economic development of the under-developed countries is one of the fundamental requisites for the strengthening of universal peace.
>
> Remembering that the right of peoples freely to use and exploit their natural wealth and resources is inherent in their sovereignty and is in accordance with the Purposes and Principles of the Charter of the United Nations,
>
> 1. Recommends all Member States, in the exercise of their right freely to use and exploit their natural wealth and resources wherever deemed desirable by them for their own progress and economic development, to have due regard, consistently with their sovereignty, to the need for maintaining the flow of capital in conditions of security, mutual confidence and economic co-operation among nations;

---

[4] Ibid., vol. 28, n° 716 p. 395 (1953).

[5] Ibid., vol. 27 n° 704 p. 100 (1952); Report by Senator Wiley, a member of the United States Delegation, in Congressional Record of February 18, 1953, p. 1209.

[6] Report No. A/2332 (Second Committee, General Assembly) of December 18, 1952; Press Release GA 939 of the United Nations Department of Public Information, of December 21, 1952, pages 8–12.

2. Further recommends all Member States to refrain from acts, direct or indirect, designed to impede the exercise of the sovereignty of any State over its natural resources."

The text of the said resolution of the General Assembly omitted over the objections of the United States, Great Britain, New Zealand and the Union of South Africa, any mention of the responsibility toward private investors of governments that nationalized their natural resources.

It may be true that any action of the United Nations General Assembly is merely a recommendation to the governments, as an expression of the opinion of the majority, and has no binding effect.[7] And it may be argued that such a resolution creates no new custom or principle of international law. In fact the Department of State states the position that [8]:

"In cases where property of American citizens is nationalized by foreign governments, the State Department interpreted this resolution, as finally adopted, as *not* in any way preventing the United States from making diplomatic representations in as strong terms as may be appropriate."

It is therefore indispensable to reassert and implement the principles of international law and American foreign policy governing the protection of private foreign investments.

Your Committees present the following resolutions and move for their adoption:

The Association of the Bar of the City of New York

REASSERTS the well established principles of international law and American foreign policy that nationalization of private investments abroad must be conditional upon prompt, adequate and effective compensation, and that any such nationalization entitles foreign investors to the protection of their own governments;

REGRETS the failure of the General Assembly of the United Nations to expressly and unqualifiedly restate said principles, and rejects any attempts at limiting or question their present validity;

INVITES the Department of State to implement the stated policy of our government of encouraging the flow of private investments abroad by securing adequate measures for the protection of American investments abroad, both present and future, against nationalization without compensation;

---

[7] Art. 10 of the Charter of the United Nations providing that "the General Assembly may discuss any questions or any matters within the scope of the present Charter . . . and may make recommendations to the members of the United Nations."

[8] *Foreign Policy Briefs*, Dept. of State, vol. 11 n° 13 of January 16, 1953.

URGES the Department of State to provide, where feasible, as part of said program of implementation, that Treaties of Friendship, Commerce and Navigation and treaties, conventions and agreements providing for political, financial and military assistance to and cooperation with other countries, entered into by the United States, contain clauses securing compensation of private American investments abroad in the event of nationalization and making the obligations of the United States under such arrangements conditional upon the compliance with said clauses by the other contracting parties, and to seek by appropriate means implementation of such arrangements; and

REQUESTS the President of the Association to present the report and the resolution to the Secretary of State.

Respectfully submitted,

COMMITTEE ON FOREIGN LAW

DUDLEY B. BONSAL, *Chairman*

THEODORE R. BLACK
PETER BORIE
OTIS B. BOSWORTH
HOBART L. BRINSMADE
ELLIOTT E. CHEATHAM
CHARLES W. CRAWFORD
MARTIN DOMKE
PHANOR J. EDER
EDWIN D. FORD, JR.
JOHN NOBLE, JR.
ALLAN A. O'GORMAN
ANGELO PIERO SERENI
PAUL SMITH, JR.
OTTO C. SOMMERICH
ROBERT F. WEISSENSTEIN

COMMITTEE ON INTERNATIONAL LAW

DANA CONVERSE BACKUS, *Chairman*

CLARENCE U. CARRUTH, JR.
WILLIAM TUCKER DEAN, JR.
JOHN V. DUNCAN
DAVID F. FREEMAN
A. MICHAEL FROTHINGHAM
MARY GARDINER JONES
DOROTHY KENYON
SAMUEL ANATOLE LOURIE
PAUL V. McNUTT
BENJAMIN C. MILNER, III
EDMUND L. PALMIERI
SEYMOUR B. QUEL
GERARD SWOPE, JR.
WILLIAM DWIGHT WHITNEY
THEODORE E. WOLCOTT

March 30, 1953

The Library

SIDNEY B. HILL, *Librarian*

LIST OF PUBLICATIONS PRESENTED BY AUTHOR-MEMBERS DURING 1951–1953

Ex oriente lux, ex occidente lex.
From the East, light, from the West, law.
LATIN PROVERB

A sharp look at the subject matter of this list will point up the fact that the legal problems of important geographical areas are being overlooked. In this Korean Era, from which a "storm cloud blows on the horizon of twentieth century history," members of the bar might consider how best they can contribute their skills to the intricate problems of our future relations with the Far East.

We do not usually look for best sellers among law books. Nevertheless, there is a volume of essays listed which has reached a second edition within a year, and a biography that is receiving the thoughtful attention of both lawyer and layman. Other creative contributions prove the adage: if you want something important done, ask a busy man to do it.

Bard, Albert S. New Jersey billboard decisions. American City, Feb. 1953.

Birnbaum, Harold F. Article 9—a restatement and revision of chattel security. 1952. March, Wis. L. Rev. 348–392.

Blair, Edwin Foster. The anti-trust aspects of trade association activities. 1952. Address. 47 p.

Blair, Paxton. The need for new directions in education. New York. 1953. 33p.

Bobbé, Sidney S. Tort liability of hospitals in New York. 1952. 37 Cornell L. Q. 419–438.

Botein, Bernard. Trial judge. 1952. New York, Simon and Schuster. 337 p.

Boudin, Leonard P. The constitutional privilege in operation. 1952. 12 Lawyers Guild Rev. 22 p.

Bravman, M. Francis. Security for the professions: a plan for equitable tax treatment—a reply. 1951. 37 Amer. B.A.J. 409.

Burton, Robert J. Business practices in the copyright field. 1952. In 7 Copyright Problems Analyzed. Commerce Clearing House, Inc. 87–118.

Cahn, Edmond N. The inherent radicalism of the legal profession. 1952. 27 N.Y.U.L. Rev.

Darrell, Norris. Corporate reorganizations and readjustments. Practising Law Institute. 1953. 82 p.

Dilliard, Irving. The spirit of liberty. Papers and addresses of Learned Hand. 1952. New York, Alfred A. Knopf. 262 p.

Eder, Phanor J. Company law in Latin America. 1951–1952. 27 Notre Dame Lawyer. 5–42, 223–243.

Eder, Phanor J. Limited liability firms abroad. 1952. 13 Pitts. L. Rev. 193–220.

Eder, Phanor J. and Uno, Felix D. Resena del derecho mercantil en los Estados Unidos. 1952. 37 Revista de Derecho Mercantil. 99–125.

Emmerich, Hugo. Samerwerking tussen Europese en Amerikaanse advocatem. 1952. 5 and 6 Nederlands Juristenblad. 94–99, 127–132.

Fallon, Perlie P. Some influences of Justice Holmes' thought on current law—evidence. 1952. 56 Dickinson L. Rev. 387–401.

Fallon, Perlie P. Two decisions of the United States Supreme Court on the restraint of Communistic activity. 1952. 56 Dickinson L. Rev. 343–348.

Finkelstein, Herman. Public performance rights in music and performance right societies. In 7 Copyright Problems Analyzed. Commerce Clearing House, Inc. 1952. 69–86.

Fraenkel, Osmond K. The Supreme Court and civil liberties. New York, American Civil Liberties Union. 1952. 80 p.

Hazard, John N. Personal injury and Soviet socialism. 1952. 65 Harvard L. Rev. 545–581.

Hazard, John N. Russia law digest. Summit, Martindale-Hubbell, Inc. 1952.

Hoffman, Harry. Some outstanding decisions in the United States Supreme Court for the preceding twelve months. Address. N.Y. County Lawyers' Assoc. 1952. 54 p.

Joseph, Franz Martin. Organizing international businesses. 4th International Bar Association Conference. 1952. 12 p.

Kleinfeld, Vincent A. and Dunn, Charles Wesley. Federal Food, Drug, and Cosmetic Act—judicial and administrative record—1949–1950. Commerce Clearing House, Inc. 1951. 543 p.

Karp, Joseph D. Copyright litigation. In 7 Copyright Problems Analyzed. Commerce Clearing House, Inc. 1952. 143–184.

Kupfer, Milton P. Article 9 of the Uniform Commercial Code—Part IV. 1952. 6 Quarterly Report. 96–100

Kupferman, Theodore R. Foreword. 7 Copyright Problems Analyzed. Commerce Clearing House, Inc. 1952. 3–6.

Levitan, David M. The jurisprudence of Mr. Justice Clarke. 1952. Miami L. Q. 44–72.

Lindey, Alexander. Plagiarism and originality. New York, Harper and Bros. 1952. 366 p.

Long, Hamilton A. Usurpation of power arch enemy of individual liberty. 1952. American Heritage Education Corp. 34 p.

Mannheimer, Albert and Friedman, Joel Irving. Income tax aspects of various will and trust arrangements. 1952. 30 Taxes. 362–375.

McDonald, Joseph A. The law of broadcasting. In 7 Copyright Problems Analyzed. Commerce Clearing House, Inc. 1952. 31–68.

Nims, Harry D. Comments on the minimum standards of the American Bar Association as applied to the courts of New York. 1950. 25 N.Y.U.L. Rev. 701–726.

Nims, Harry D. The cost of justice. Hecla Press. 41 p.

Nims, Harry D. Some comments on the relation of pre-trial to the rules of evidence. 1952. 5 Vanderbilt L. Rev. 581–588.

Nims, Harry D. The significance of trade mark and unfair competition law for the future. Address. 1951. 15 p.

Prashker, Louis. Supplement to New York practice. New York, St. John's U. 1952. 52 p.

Re, Edward D. Comparative law courses in the law school curriculum. 1952. 1 Amer. J. of Comp. Law. 233–42.

Roehner, Edward T. Do gifts of farm products and of mercantile inventory result in income to the donor? 1952. 22 N.Y. Certified Public Accountant. 347–54.

Roehner, Edward T. and Sheila M. Realization: administrative convenience or constitutional requirement? 1953. January, Tax L. Rev. 173–200.

Roehner, Edward T. and Sheila M. Renunciation as taxable gift—an unconstitutional federal tax decision. 1953. 8 Tax L. Rev. 289–315.

Rohrlich, Chester. Organizing corporate and other business enterprises. Albany, Matthew Bender & Co., Inc. 1953. 506 p.

Rosenman, Samuel I. Working with Roosevelt. New York, Harper and Brothers. 1952. 560 p.

Saxe, Leonard S. Civil remedies and procedure. 1952. 27 N.Y.U.L. Rev. 1201–1224.

Saxe, Leonard S. Saxe's supplement (1946–1951) to Carmody's manual of New York civil practice. New York, Clark Boardman Co., Ltd. 1952. 1049 p.

Schoenrich, Otto. The legacy of Christopher Columbus. Glendale, Arthur E. Clark Co. 1949. 2 vols.

Schulman, John. Authors' rights. In 7 Copyright Problems Analyzed. Commerce Clearing House, Inc. 1952. 19–30.

Seasongood, Murray. Book review of: Haar, Land planning law in a free society. 1952. 1 J. Pub. Law. 421–31.

Sereni, Angelo Piero. Basic features of civil procedure in Italy. 1952. 1 Amer. J. of Comp. Law. 373–89.

Sereni, Angelo Piero. Italian law. Lecture. 1952. 10 p.

Sereni, Angelo Piero. L'equity negli stati uniti. 1952. No. 2–3, Rivista Trimestrale di Diritto e Procedura. 1–67.

Solinger, David M. Television and the law. Fortune Mag. Dec. 1948–Jan. 1949.

Sommerich, Otto C. Conflict of laws with regard to foreign decedent estates. 3rd International Bar Association Conference. 1950. 16 p.

Spring, Samuel. Risks and rights in publishing, television, radio, motion pictures, advertising, and the theater. New York, W. W. Norton and Co., Inc. 1952. 385 p.

Sunderland, Edwin S. S. Illinois Central Railroad, main line of mid-America. The simplification of its debt structure, 1938–52. 1952.

Tannenbaum, Samuel W. Practical problems in copyright. In 7 Copyright Problems Analyzed. Commerce Clearing House, Inc. 1952. 7–18.

Vanderbilt, Arthur T. An example to emulate. 1953. 52 S. Atlantic Q. 16 p.

Vanderbilt, Arthur T. The doctrine of the separation of powers and its present-day significance. U. of Nebraska Press. 1953. 144 p.

vom Baur, F. Trowbridge. Standards of admission for practice before federal administrative agencies. New York, Prentice-Hall, Inc. 1953. 62 p.

Wechsler, Herbert. The challenge of a model penal code. 1952. 65 Harvard L. Rev. 1097–1133.

Wormser, Rene A. Personal estate planning in a changing world. New York, Simon and Schuster. 1952. 271 p.